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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,129	09/16/2003	Allen Fox	08226/1203097-US1	7169
38880	7590	12/06/2005	EXAMINER	
DARBY & DARBY P.C. P.O. BOX 5257 NEW YORK, NY 10150-6257			ELISCA, PIERRE E	
			ART UNIT	PAPER NUMBER
			3621	
DATE MAILED: 12/06/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/667,129	Applicant(s) FOX ET AL.	
	Examiner Pierre E. Elisca	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to Applicant's response filed on 9/1/2005.
2. Claims 1-82 are pending.
3. The rejection to claims 1-82 under 35 U.S.C. 103 (a) as being unpatentable over Allan et al in view of Bass as set forth in the office action mailed on 6/23/2005 is maintained.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-82 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Allan et al (U.S. Pat. No. 6,526,456) in view of Bass et al (U.S Pat. No. 6,744,446).

As per Claims 1, 4-82 Allan substantially discloses a software product that can be freely distributed while limiting its use to authorized subscribers, the method comprising:

a set of users including identify one or more software products that are rented by users in the set (see., abstract, col 1, lines 4-8, col 4, lines 63-67, col 5, lines 1-15);

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Authorizing a user in the set to access a software product through the computer network based on whether the software product is identified as a rented software product (see., abstract, col 1, lines 4-8, col 4, lines 63-67, col 5, lines 1-15).

Based on Applicant's arguments mailed on 03/18/2005, Applicant argues that neither Allan nor Reuter fails to disclose the step of assigning a virtual container (s) to users. However, a newly found prior art Bass discloses a method/apparatus for displaying network (network or online) information to a user connected to a network, and enable a user to configure the network by assigning virtual containers (see., abstract, col 2, lines and 67 and 68, col 3, lines 1-8). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the software rental service of Allan by including the limitation detailed above as taught by Bass because this would improve software rental product.

As per claims 2 and 3, Allan discloses the claimed method of identifying the rented software product in the virtual container for a rental period (see., col 9, lines 24-37).

RESPONSE TO ARGUMENTS

6. Applicant's arguments filed on 9/1/2005 have been fully considered but they are moot in view of new ground (s) of rejection.

REMARKS

7. In response to Applicant's arguments, Applicant argues that the prior art of record (Allan in view of Bass) fail to disclose the recited feature:

A. "a set of users" However, the Examiner respectfully disagrees with this assertion since the independent claims recite "a set of users including one or more users", and therefore, the Examiner interpreted a set of user or users as a subscriber or subscribers (see., Allen abstract, col 2, lines 10-67).

B. "identify one or more software products that are rented by users". As discussed in the previous rejection and hereby incorporated by reference, the cited reference (Allan) discloses a SC 14 that communicates information including identification of the software product and the subscriber of the respective databases (see., Allen, col 5, lines 1-15).

C. "Applicant also argues that the OA filed on 6/23/2005 does not address each independent claim individually". The Examiner respectfully disagrees because the independent claims recite: game software, educational or business software, or digital game, or computers which do not differentiate as to the different type of items being rented. Furthermore, Applicant should note that educational or business software, media content, and digital games are software products, and therefore the rejection of the independent claims are encompassed in the rejection detailed above.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

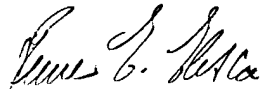
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in cursive script, appearing to read "Pierre E. Elisca".

Pierre Eddy Elisca

Primary Patent Examiner

November 16, 2005